

## **GUIDELINES ON WORK PERMIT APPLICATION IN LABUAN IBFC FOR LICENSED AND NON-LICENSED ENTITIES**

### **1.0 Introduction**

- 1.1 The purpose of this Guidelines is to facilitate the application of work permits for expatriates working for a licensed and non-licensed entity in Labuan International Business and Financial Centre (Labuan IBFC).

### **2.0 Applicability**

- 2.1 The Guidelines is applicable to all licensed and non-licensed entities which are incorporated, licensed or registered under Labuan Companies Act 1990 (LCA), Labuan Trusts Act 1996 (LTA), Labuan Foundations Act 2010 (LFA), Labuan Limited Partnerships and Limited Liability Partnerships Act 2010 (LPLLP), Labuan Financial Services and Securities Act 2010 (LFSSA) or Labuan Islamic Financial Services and Securities Act 2010 (LIFSSA).

### **3.0 Legal Provision**

- 3.1 The Guidelines is issued pursuant to section 4A of Labuan Financial Services Authority Act 1996 (LFSAA).
- 3.2 Any person who fails to comply with the Guidelines commits an offence upon which Labuan FSA may undertake appropriate enforcement action to the extent provided by the law.
- 3.3 The Guidelines should be read in conjunction with the provisions of the relevant Labuan laws as well as written directions, guidelines and circulars that Labuan FSA may issue from time to time and any related policies issued by Immigration Department of Malaysia.

#### 4.0 Effective Date

- 4.1 The Guidelines shall come into effect on 2 April 2019 and would remain effective and applicable unless amended or revoked.
- 4.2 With the issuance of the Guidelines, the following policy documents are superseded:
  - 4.2.1 Guidelines on Work Permit Application in Labuan IBFC for Licensed Entity issued on 25 February 2015.
  - 4.2.2 Guidelines on Work Permit Application in Labuan IBFC for Non-licensed Entity issued on 25 February 2015.
  - 4.2.3 Clarification Note for Guidelines on Work Permit Application in Labuan IBFC for Licensed and Non-licensed Entity issued on 13 March 2015.

#### 5.0 Eligibility Criteria

- 5.1 The work permit applicant's minimum income shall be **RM10,000** per month or its equivalent in any foreign currency. The income may include the following:
  - 5.1.1 Basic salary;
  - 5.1.2 Cash allowances e.g. perquisites, meal, transportation, housing etc.;
  - 5.1.3 Benefits-in-kind;
  - 5.1.4 Value of living accommodation; and
  - 5.1.5 Other fees and commissions.
- 5.2 The application for work permit should be in respect of the following positions in a Labuan entity as specified by the Immigration Department of Malaysia:
  - 5.2.1 Top management, e.g. Members of the Board, Executive Director, Managing Director, Principal Officer, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer.
  - 5.2.2 Professionals, e.g. Accountant, Lawyer, Consultant, Underwriter, Economist, Advisor, Engineer, Actuary, Trader (*for those who employed under Labuan International Commodity Trading Company*).
  - 5.2.3 Technical experts, e.g. IT Specialist or other specialists related to Labuan trading activities.

- 5.3 The applicant should have the competencies or relevant working experience related to the position applied in line with the fit and proper requirements as follows:
- 5.3.1 Non-licensed entities – Refer to the requirements under **Appendix 1**.
  - 5.3.2 Licensed entities – Refer to the Guidelines on Fit and Proper Person Requirements issued by Labuan FSA.
- 5.4 The applicant to be employed as a Financial Advisor and Business Development Manager/Coordinator of Labuan life insurance broking companies must comply with the requirements under the Supplementary Guidelines on Standards of Certification for Labuan Financial Advisor under the Employment of Labuan Life Insurance Broking Companies issued by Labuan FSA on 31 December 2012.

## **6.0 Operational Requirement**

- 6.1 An application for work permit shall be submitted to Labuan FSA in accordance with the latest checklist provided by Immigration Department of Malaysia which is downloadable from Labuan FSA's website (<http://www.labuanibfc.com>) and supporting documents can be certified by any of the following authorised officer in Malaysia:
- 6.1.1 Commissioner for oath;
  - 6.1.2 Notary public;
  - 6.1.3 Certified public accountant;
  - 6.1.4 Advocates or solicitor;
  - 6.1.5 Company secretary; or
  - 6.1.6 Malaysian/foreign embassies.
- 6.2 For documents which are not in the national language of Malaysia or in English, these must be translated by a qualified translator, certified and notarised in the applicant's country of residence or in Malaysia by the following:
- 6.2.1 The employer;
  - 6.2.2 Notary public;
  - 6.2.3 Magistrate interpreter;
  - 6.2.4 Recognised language interpreter centre;

- 6.2.5 Malaysian embassy or consulate office in the applicant's country of residence or applicant's country's embassy or consulate office in Malaysia;  
or
- 6.2.6 Equivalent government authority in the applicant's country of residence.
- 6.3 In addition to paragraph 6.1, for applicants of non-licensed entities, the following documents shall also be certified and submitted to Labuan FSA through their appointed Labuan Trust Company:
- 6.3.1 Business plan of the entity which includes:
- a. Description of business undertaken.
  - b. Organisation chart.
  - c. Job description of the applicant.
- The business plan shall be submitted to Labuan FSA during the **first** work permit application made to the Authority. For subsequent work permit applications, the submission of business plan is only required if there were changes to the plan.
- 6.3.2 A copy of employment contract or letter of appointment between the company and the applicant.
- 6.3.3 Income tax reference number:
- a. Labuan entity's tax reference;
  - b. Employer's tax reference; and
  - c. Employee's tax reference.
- Items under paragraphs 6.3.3(b) and 6.3.3(c) are required to be submitted to Labuan FSA within 30 working days upon obtaining the tax reference number from the Inland Revenue Board of Malaysia.
- 6.4 Application for work permit for applicants of licensed entities may be submitted to Labuan FSA through the following:
- 6.4.1 The Labuan licensed entities on behalf of its employee;
  - 6.4.2 A Labuan trust company;
  - 6.4.3 The Labuan insurance managers or Labuan underwriting managers; or
  - 6.4.4 The Labuan takaful managers or Labuan takaful underwriting managers.

- 6.5 A Statutory Declaration in relation to Work Permit Application as attached in **Appendix 2** must be submitted together with a copy of due diligence document i.e. World-check results or its equivalent.
- 6.6 Applicants from high-risk jurisdiction as listed by the Financial Action Task Force (<http://www.fatf-gafi.org>) and other countries as may be specified by Labuan FSA may be required to attend an interview session which will be conducted by the Authority.
- 6.7 The applicant is required to provide the address of the company/employer in Malaysia, as required by the Immigration Department of Malaysia. The company's/employer's address must be the operational office, co-located office or marketing office in Labuan or Malaysia as per the respective guidelines issued by Labuan FSA.
- 6.8 For work permit renewal application, the applicant is required to submit to Labuan FSA based on the latest checklist provided by Immigration Department of Malaysia which is downloadable from Labuan FSA's website (<http://www.labuanibfc.com>) including the following:
- 6.8.1 Certified true copy of the latest three months' salary slips and bank statements.
- 6.8.2 A certified true copy of the EA form (*annual gross employment income*).
- 6.9 The application for renewal of work permit must be submitted to Labuan FSA at least three months before the work permit expires.
- 6.10 The application for work permit and renewal of work permit must be submitted together with a non-refundable processing fee of RM1,000/USD350.

## **7.0 Compliance Requirement**

- 7.1 The applicant shall **ONLY** undertake activities as specified under the Labuan legislations.
- 7.2 The approved work permit is only allowed to be used to undertake business activities of the Labuan entity.
- 7.3 All applicants must comply with fit and proper requirement as specified in the Guidelines on Fit and Proper Person Requirements issued by Labuan FSA.
- 7.4 Failure to adhere to these compliance requirements may result in revocation of the recommendation for work permit by Labuan FSA and initiation of other punitive measures by Labuan FSA, relevant domestic regulators and law enforcement agencies in Malaysia.

## **8.0 Submission for Application and Enquiry**

- 8.1 Any submission of application or enquiry on the application for work permit may be forwarded to the following:

Director  
Business Management Department  
Labuan Financial Services Authority  
Level 17, Main Office Tower  
Financial Park Complex  
Jalan Merdeka  
87000 Federal Territory of Labuan

Telephone no. : 087 591200

Fax no. : 087 453442/413328

Email : [bou@labuanfsa.gov.my](mailto:bou@labuanfsa.gov.my) / [roc@labuanfsa.gov.my](mailto:roc@labuanfsa.gov.my)

### **Labuan Financial Services Authority**

*2 April 2019 (Revised)*

*25 February 2015*

## Fit and Proper Person Requirements

For the purpose of determining whether a person is a fit and proper person, the following may be taken into consideration:

- (A) Integrity;
- (B) Competency;
- (C) Soundness of judgement; and
- (D) Financial standing of the person.

### (A) Integrity

Integrity is a set of qualities that are demonstrated over time. These attributes demand a disciplined, on-going commitment to high standards of behaviour and honesty. In determining the integrity of the relevant person, the following factors would be the minimum criteria:

(i) *Inference to offence committed or deemed to have been committed by relevant person*

Whether the person:

- (a) is or has been the subject of any proceedings of a disciplinary or criminal in nature, or has been notified of any impending proceedings or of any investigation, which might lead to such proceedings;
- (b) has been charged or convicted in any court of any criminal offence including an offence relating to dishonesty, fraud, financial crime or other criminal acts or been involved in any acts of misfeasance or serious misconduct;
- (c) has been found liable in any civil suits in any court in relation to fraud or misfeasance;
- (d) has contravened any of the requirements and standards of a regulatory body, professional body, government or its agencies, which are of the nature or significance that may have his fitness and propriety; or
- (e) has contravened any provisions made by or under any written law designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice.

(ii) Inference to adverse situations where the relevant person is involved

Whether the person:

- (a) or any business in which he has controlling interest or exercises significant influence, has been investigated, disciplined, suspended or criticised by a regulatory or professional body, a court of tribunal, whether publicly or privately;
- (b) has been associated, in ownership or management capacity with a company, partnership or other business association that has been refused registration, authorisation, membership or a licence to conduct trade, business or profession or has had a registration, authorisation, membership or licence revoked, withdrawn or terminated;
- (c) has been refused the right to carry on a trade, business or profession requiring a licence, registration or other authorisation as a result of the removal of the licence, registration or other authority mentioned in (b) above; or
- (d) has held a position of responsibility in the management of a business that has gone into receivership, insolvency, or involuntary liquidation while the person was connected with that business.

(iii) Inference to punitive actions taken against the relevant person

Whether the person:

- (a) has been dismissed, asked to resign or resigned from the employment or from a position of trust, fiduciary appointment or similar position because of question about his honesty and integrity;
- (b) has been disqualified, under the companies legislation or any other legislation or regulation, from acting as a director or serving in a managerial capacity; or
- (c) has been subjected to any adverse report based on any information or documents made available to Labuan FSA by any reliable sources.

(iv) Inference to situation that shows doubt on the relevant person's probity

Whether the person:

- (a) has at any time shown strong opposition or lack of willingness to maintaining effective internal control system;
- (b) has not been fair, trustful and forthcoming in his dealings with his customers, superiors, auditors and regulatory authority in the past; or



- (c) does not demonstrate readiness or willingness to comply with the legal or regulatory requirements; or professional standards; or has shown a strong objection or lack of willingness to cooperate with regulatory authorities.

**(B) Competency**

In determining competency of a person, the following considerations would be taken into account, including but not limited to, whether the person:

- (i) has demonstrated, through his qualifications and experience, the capacity to successfully undertake the cognate responsibilities of the position, including the establishment of effective control regime;
- (ii) has ever been disciplined by a professional, trade or regulatory body, or dismissed or requested to resign from any position or office for negligence, incompetence or mismanagement; or
- (iii) has a sound knowledge of the business and responsibilities attached to it.

**(C) Soundness of judgement**

In determining a person's soundness of judgement, all relevant factors would be considered, including but not limited to:

- (i) has shown an adequate degree of balance, rationality and maturity, demonstrated in conduct and decision making, especially with respect to previous business practices;
- (ii) has soundness of judgement that may be derived from the lack of adverse information;
- (iii) does not have a record or evidence of previous business conduct and activities of a deceitful, oppressive or otherwise improper in nature, or which otherwise raises concerns about the individual's methods of conducting business; or
- (iv) is free from any business or other relationship which could materially pose a conflict of interest or interfere with the exercise of his judgement when acting in the capacity of a key responsible person which would be disadvantageous to the LFI or the LFI's interest.

**(D) Financial standing**

In determining a person's financial standing, all relevant factors would be considered, including but not limited to, whether the person at any time during the preceding ten years has:

- (i) been the subject of any adverse judgement or award in Labuan or elsewhere, that remains outstanding or was not satisfied within a reasonable period;
- (ii) made any arrangement or composition with his creditors, and members or have had a petition presented in any court for its winding up, filed for bankruptcy, been adjudged bankrupt, had assets sequestrated, or been involved in proceedings relating to any of the above in Labuan or elsewhere; or
- (iii) been a senior officer of a company or a shareholder in a position to exercise significant influence in the company that:
  - (a) has been the subject of any adverse judgement or award, in Labuan or elsewhere, that remains outstanding or was not satisfied within a reasonable period; or
  - (b) has in Labuan or elsewhere made any arrangements or composition with its creditors, filed for bankruptcy, been adjudged bankrupt, had assets sequestrated, or been involved in proceedings relating to any of the foregoing.

The fact that a person may be of limited financial means will not, in itself, affect his ability to satisfy the financial standing criteria.

**Statutory Declaration in Relation to a Work Permit Application**

**Name of Applicant:**\_\_\_\_\_

**Name of Labuan Company:**\_\_\_\_\_

**(Co. No.:**\_\_\_\_\_**)**

I, .....of NRIC/Passport No:....., an authorised officer do hereby solemnly and sincerely declare, for and on behalf of \_\_\_\_\_(name of Labuan Trust Company/Labuan Licensed Entity) that in relation to the above application-

- a. I have taken reasonable measures to verify by reliable means:
  - i. the identity of the above Applicant; and
  - ii. the authenticity and originality of the documents and information submitted in relation of this application.
  
- b. I have conducted relevant vetting on the Applicant and satisfied that the Applicant fulfilled the relevant requirements of fit and proper person as stipulated by Labuan FSA.
  
- c. I have sighted, verified and have in our possession relevant documents in relation to paragraphs (a) and (b) above and Labuan FSA may request or inspect the documents at any time for any purpose.
  
- e. All information or document submitted to Labuan FSA or the Malaysian Immigration Department for this application is valid and genuine.
  
- f. I am satisfied that all requirements of the relevant laws and regulation in respect to the above application have been complied with and hereby recommend for this application.

I make this solemn declaration conscientiously believing the same to be true and knowing that it is of the same force and effect as if made under oath by virtue of the provisions of the Statutory Declaration Act 1960.

Subscribed and solemnly declared by  
the above named .....

At .....

In the State of .....

This ...day of .... 20..

.....

Signature

Before me,

.....  
(Commissioner for Oath)